



Reprinted
March 4, 1999

HOUSE BILL No. 1200

DIGEST OF HB 1200 (Updated March 3, 1999 11:47 am - DI 75)

Citations Affected: IC 5-26.

Synopsis: Professional sports franchises. Provides that the owner of a professional sports team that operates in Indiana and that has at any time received governmental assistance must give the governor and the executive of the municipality in which the team plays a majority of its home games not less than 180 days notice of the owner's intent to relocate the team. Requires the notice to include the owner's terms and conditions for acquisition of the franchise by a franchise acquisition corporation. Provides that when the governor receives the notice from the owner, a franchise acquisition corporation is formed to acquire the franchise. Provides for appointment of the board of directors of the corporation. Requires the corporation to accept the owner's terms and conditions for acquisition of the franchise or negotiate with the owner for acceptable terms and conditions for acquisition. Provides that if the board and the owner cannot agree on the terms and conditions for

(Continued next page)

Effective: July 1, 1999.

Bailey, Smith M, Dobis

January 6, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.
February 22, 1999, reported — Do Pass.
March 3, 1999, read second time, amended, ordered engrossed.

HB 1200—LS 6447/DI 75+



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acquisition of the franchise, the matter must be referred to an arbitrator to determine the terms and conditions for acquisition of the franchise. Provides that the board may waive acquisition of the franchise if the board, the owner, and the league agree on acquisition of a new franchise by the corporation. Requires the board to waive acquisition of the franchise if the corporation is unable to comply with the terms and conditions of the acquisition or if the board determines, by unanimous vote of its members, that acquisition is not in the best interest of the state and the municipality. Provides for dissolution of the corporation if a franchise is not acquired. Provides the general and financial powers of a franchise acquisition corporation. Provides civil penalties if an owner fails to give the required notice or fails to negotiate in good faith. Provides that the previous provisions do not apply to a franchise if the franchise has complied with all the terms and conditions of all agreements the franchise has with all governmental entities relating to the governmental assistance received by the franchise. Provides that after June 30, 1999, an agreement between a governmental entity and a franchise to provide governmental assistance to the franchise must acknowledge the effect of the franchise acquisition statute and agree to be bound by it. Provides that a franchise that operates in Indiana irrevocably consents to jurisdiction of Indiana courts and to service of process in a legal proceeding relating to the franchise regardless of the subsequent location of the franchise.

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March 4, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1200

A BILL FOR AN ACT to amend the Indiana Code concerning
business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-26 IS ADDED TO THE INDIANA CODE AS A
2 **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1999]:

4 **ARTICLE 26. PROFESSIONAL SPORTS FRANCHISE**
5 **ACQUISITION**

6 **Chapter 1. General Provisions**

7 **Sec. 1. This article applies to a franchise that:**

- 8 (1) operates a professional sports team in Indiana; and
9 (2) has at any time received governmental assistance.

10 **Sec. 2. After June 30, 1999, a governmental entity may not**
11 **provide governmental assistance to a franchise unless any**
12 **agreement relating to the governmental assistance contains specific**
13 **language stating in substance both of the following:**

- 14 (1) The franchise acknowledges the effect of this article.
15 (2) The franchise agrees that it is bound by this article.

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1 **Sec. 3.** For purposes of this article, a franchise has received
 2 governmental assistance if any of the following apply:

3 (1) The franchise has received any funds from a governmental
 4 entity:

5 (A) in consideration for the franchise to locate or maintain
 6 the franchise's professional sports team in Indiana; or

7 (B) to support any aspect of the franchise's operation.

8 (2) The franchise has received any incentives in the form of
 9 special tax treatment or other incentives provided under
 10 Indiana law.

11 (3) A governmental entity has spent funds for infrastructure
 12 to benefit the franchise.

13 (4) The franchise operates in facilities or on real property
 14 acquired by or leased with, in whole or in part, funds spent by
 15 a governmental entity.

16 **Sec. 4.** A franchise that operates a professional sports team in
 17 Indiana irrevocably consents to:

18 (1) jurisdiction of Indiana courts; and

19 (2) service of process;

20 in any legal proceeding relating to the franchise regardless of any
 21 subsequent location of the franchise.

22 **Sec. 5.** The following do not apply to a franchise if the franchise
 23 has complied with all the terms and conditions of all agreements
 24 the franchise has with governmental entities relating to the
 25 governmental assistance received by the franchise:

26 (1) IC 5-26-3-1.

27 (2) IC 5-26-4-1.

28 (3) IC 5-26-5-1.

29 (4) IC 5-26-6-1.

30 (5) IC 5-26-7-1.

31 (6) IC 5-26-8-1.

32 (7) IC 5-26-9-1.

33 **Chapter 2. Definitions**

34 **Sec. 1.** The definitions in this chapter apply throughout this
 35 article.

36 **Sec. 2.** "Arena" refers to the place where a franchise's
 37 professional sports team conducts the majority of the team's home
 38 games.

39 **Sec. 3.** "Board" refers to the board of directors of a corporation.

40 **Sec. 4.** "Corporation" refers to a franchise acquisition
 41 corporation established under IC 5-26-4.

42 **Sec. 5.** "Franchise" refers to the entity that comprises the entire



operation of a professional sports team and includes all property, real and personal, tangible and intangible, used in the operation of a professional sports team.

Sec. 6. "Governmental entity" refers to any of the following:

- (1) The state.
- (2) A political subdivision (as defined in IC 36-1-2-13).
- (3) An agency or instrumentality of an entity described in subdivision (1) or (2).
- (4) An entity established under Indiana law to perform public functions or to operate a public enterprise.

Sec. 7. "League" refers to the person that:

- (1) consists of more than one (1) professional sports team; and
- (2) is organized to provide professional sports competition.

The term includes all persons involved in the organization and operation of the professional sports teams to provide professional sports competition.

Sec. 8. "Municipality" refers to the city or town where a franchise's professional sports team's arena is located. If the arena is not located within a municipality, the term refers to the county where the arena is located.

Sec. 9. "Owner" refers to the person or group of persons who owns a franchise. The term includes a person authorized by the owner to act as the owner's agent with respect to the franchise.

Sec. 10. "Person" means an individual, a corporation, a limited liability company, a partnership, a limited partnership, a limited liability partnership, a trust, an estate, an unincorporated association, or any other legal entity.

Sec. 11. "Player" refers to an individual who renders professional athletic services to a professional sports team.

Sec. 12. "Professional sports team" refers to that part of a franchise operation that consists of players, coaches, and other personnel and property that are organized to engage in professional sports competitions.

Chapter 3. Notification of Franchise Relocation

Sec. 1. (a) Not later than one hundred eighty (180) days before a franchise relocates from its arena, the owner shall notify the following of its intention to relocate:

- (1) The governor.
- (2) The executive of the municipality in which the arena is located.

(b) The owner of the franchise shall include in the notice all the information required by IC 5-26-7-1.



1 **Sec. 2. (a)** Not later than ten (10) days after receiving notice
 2 under section 1 of this chapter, the governor shall notify the
 3 following to make appointments under IC 5-26-4:

- 4 (1) The chief justice of Indiana.
 5 (2) The speaker of the house of representatives.
 6 (3) The president pro tempore of the senate.

7 **(b)** Not later than ten (10) days after receiving notice under
 8 section 1 of this chapter, the executive of the municipality shall
 9 notify the presiding officer of the municipality's legislative body to
 10 make an appointment under IC 5-26-4. If the municipality's
 11 executive is the presiding officer of the municipality's legislative
 12 body, the executive shall notify the legislative body's president pro
 13 tempore to make an appointment.

14 **Sec. 3.** Not later than twenty (20) days after the franchise has
 15 given notice under section 1 of this chapter, the members of the
 16 board shall be appointed under IC 5-26-4-3.

17 **Sec. 4.** The board shall hold its first meeting not later than thirty
 18 (30) days after the franchise has given notice under section 1 of this
 19 chapter.

20 **Sec. 5. (a)** Subject to section 4 of this chapter, the governor shall
 21 call the first meeting of the board at a date, time, and place
 22 designated by the governor.

23 **(b)** The governor shall preside at the board's first meeting until
 24 the chair of the board is elected under this section. Except as
 25 provided in subsection (c)(2), the governor has no vote on matters
 26 before the board.

27 **(c)** The board shall do the following at the board's first meeting
 28 under section 4 of this chapter, in the following order:

- 29 (1) Convene.
 30 (2) Elect the board chair. If the members of the board are
 31 equally divided on the election of the chair, the governor shall
 32 cast the deciding vote.
 33 (3) Elect the board secretary.
 34 (4) Elect other officers the board considers necessary.
 35 (5) Conduct other business the board considers necessary to
 36 fulfill its duties under this article.

37 **Sec. 6.** After the first meeting of the board, the board shall file
 38 a statement with the secretary of state certifying all of the
 39 following:

- 40 (1) That the corporation has been formed.
 41 (2) The board has been appointed. The certificate shall
 42 include the following information regarding the board:



(A) The name and mailing address of each member of the board.

(B) The name of the board's chair.

(C) The name of the board's secretary.

(3) The first meeting has been conducted according to this article.

(4) The corporation is doing business under this article.

Chapter 4. Franchise Acquisition Corporations

Sec. 1. (a) When the governor receives notice under IC 5-26-3-1, a franchise acquisition corporation is established.

(b) The name of the corporation is "_____
(name of the franchise's professional sports team) acquisition corporation".

Sec. 2. A corporation established under section 1 of this chapter is a body corporate and politic, and though it is separate from the state, the exercise by the corporation of its powers constitutes an essential governmental function.

Sec. 3. (a) The corporation is governed by a board of directors consisting of the following:

(1) One (1) individual appointed by the governor. The term of office of the member first appointed under this subdivision expires July 1 of the third year after the member is appointed.

(2) One (1) individual appointed by the executive of the municipality in which the professional sports team's arena is located. The term of office of the member first appointed under this subdivision expires July 1 of the third year after the member's appointment.

(3) One (1) individual appointed by the speaker of the house of representatives. The term of office of the member first appointed under this subdivision expires July 1 of the second year after the member's appointment.

(4) One (1) individual appointed by the president pro tempore of the senate. The term of office of the member first appointed under this subdivision expires July 1 of the second year after the member's appointment.

(5) One (1) individual appointed by the presiding officer of the municipality's legislative body. If the municipality's executive is the presiding officer of the municipality's legislative body, the legislative body's president pro tempore shall make the appointment under this subdivision. The term of office of the member first appointed under this subdivision expires July 1 of the year after the member's appointment.



(6) One (1) individual appointed by the chief justice of Indiana. The term of office of the member first appointed under this subdivision expires July 1 of the year after the member's appointment.

(b) Not:

(1) earlier than thirty (30) days; and

(2) later than sixty (60) days;

after the governor receives notice under IC 5-26-3-1, the governor shall appoint an individual to serve on the board if any of the officials described in subsection (a)(2) through (a)(6) fail to make an appointment within the time required under IC 5-26-3-3.

(c) Except as provided in subsection (a), a member's term of office expires July 1 of the third year after the member is appointed.

(d) A member may be reappointed to a new term of office by the member's appointing authority.

Sec. 4. (a) A board member serves until the earliest of the following:

(1) The member resigns from the board.

(2) The member's term of office expires.

(3) The member fails to attend three (3) consecutive meetings of the board.

(4) The member dies.

(b) If a vacancy occurs on the board, the remaining members of the board shall notify the following of the vacancy:

(1) The governor.

(2) The official who appointed the member whose position is vacant, if that official is not the governor.

(c) The official who appointed the member whose position is vacant shall appoint another individual to fill the vacancy not later than thirty (30) days after the official is notified of the vacancy. The official filling the vacancy shall notify the following of the appointment:

(1) The board.

(2) The governor, if the official making the appointment is not the governor.

(d) If an appointment is not made under subsection (c) within the time specified in subsection (c), the governor shall fill the vacancy not later than forty-five (45) days after receiving notification under subsection (b).

(e) If the governor does not fill the vacancy as provided in subsection (d), the board shall fill the vacancy.



1 **Sec. 5. (a) The board chair serves a term that ends on the earlier**
 2 **of the following:**

3 (1) July 1 of the second year after the chair is elected.

4 (2) The individual serving as chair is no longer a member of
 5 the board.

6 **(b) The individual who serves as chair may be reelected as chair.**

7 **Sec. 6. The board shall meet at:**

8 (1) the call of the chair;

9 (2) times scheduled by the board; and

10 (3) the written call of any three (3) members.

11 **Sec. 7. (a) Four (4) members of the board constitute a quorum.**

12 **(b) Except as provided in subsection (c), the affirmative vote of**
 13 **four (4) members of the board is required for the board to take**
 14 **action.**

15 **(c) If the board is evenly divided on a question, the chair shall**
 16 **give the casting vote.**

17 **Sec. 8. A member of the board is entitled to all of the following:**

18 (1) The minimum salary per diem provided for by
 19 IC 4-10-11-2.1(b). The member is not entitled to payment
 20 under this subdivision if the member is an employee of a
 21 governmental entity.

22 (2) Reimbursement for traveling as provided under
 23 IC 4-13-1-4.

24 (3) Reimbursement for other expenses actually incurred in
 25 connection with the member's duties as provided in the state
 26 travel policies and procedures established by the Indiana
 27 department of administration and approved by the budget
 28 agency.

29 **Sec. 9. In addition to the purposes set forth in IC 5-14-1.5-6.1,**
 30 **the board may hold an executive session for any of the following**
 31 **purposes:**

32 (1) To receive and deliberate about financial information
 33 relating to acquisition of the franchise.

34 (2) To receive and deliberate about terms and conditions for
 35 acquisition of the franchise.

36 (3) To conduct negotiations with the owner or agents of the
 37 owner.

38 **Chapter 5. Franchise Acquisition Corporation Powers**

39 **Sec. 1. A corporation may sue, be sued, and otherwise be**
 40 **involved in litigation.**

41 **Sec. 2. The board may adopt, amend, and repeal bylaws for the**
 42 **regulation of the corporation's affairs and the conduct of the**



corporation's business.

Sec. 3. A corporation may:

- (1) accept gifts, devises, bequests, grants, loans, appropriations, financing, and any other aid from any source; and
- (2) agree to and comply with conditions attached to acceptance.

Sec. 4. A corporation may do the following with respect to real property:

- (1) Acquire title or any interest in real property by lease, conveyance (including purchase) in lieu of foreclosure, or foreclosure.
- (2) Own, manage, operate, hold, clear, improve, and construct facilities on real property.
- (3) Sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real property, an interest in real property, or facilities on real property.
- (4) Exercise any other powers that a corporation formed under IC 23 may exercise with respect to its property or property that the corporation wants to acquire.

Sec. 5. A corporation may exercise the financial powers described in IC 5-26-6.

Sec. 6. A corporation may acquire insurance against any loss in connection with its operations in amounts, and from insurers, as the board considers necessary or desirable.

Sec. 7. (a) A corporation may employ fiscal consultants, engineers, bond counsel, other special counsel, real estate counselors, appraisers, and other consultants, employees, and agents as the board considers necessary or appropriate.

(b) The board may fix and pay the compensation of persons employed under subsection (a) from the corporation's funds.

Sec. 8. A corporation may make, execute, and implement contracts, agreements, or other documents with any person the board considers necessary or convenient to accomplish the purposes of this article.

Sec. 9. A corporation may acquire and own a franchise under this article.

Sec. 10. A corporation may do any and all things the board considers necessary, proper, or convenient to carry out this article.

Chapter 6. Franchise Acquisition Corporation Financial Powers

Sec. 1. (a) A corporation may borrow money from a bank, an insurance company, an investment company, or any other person.



1 (b) The corporation may negotiate the terms of a loan contract.
 2 The contract must provide for repayment of the money in not more
 3 than forty (40) years.

4 (c) The loan contract must provide that the loan may be
 5 prepaid.

6 (d) The loan contract must plainly state that it is not an
 7 indebtedness of the state but constitutes a corporate obligation
 8 solely of the corporation and is payable solely from funds of the
 9 corporation, the proceeds of future loan contracts or bonds, or any
 10 funds the corporation may acquire for its purposes.

11 Sec. 2. (a) A corporation may issue and sell debt instruments of
 12 the corporation.

13 (b) Debt instruments, when issued by the corporation, have all
 14 the qualities of negotiable instruments under IC 26 and are
 15 incontestable in the hands of a bona fide purchaser or holder of the
 16 debt instruments for value.

17 (c) The corporation may sell or issue bonds and other evidences
 18 of debt at a public or private sale at a time or times determined by
 19 the board. The corporation may negotiate the terms and conditions
 20 of each issue of its securities on terms that the board considers to
 21 be commercially reasonable.

22 (d) The corporation shall deposit and disburse the proceeds of
 23 the securities issued in accordance with any provisions and
 24 restrictions that the board may approve. The maturities of the debt
 25 instruments, the rights of the holders, and the rights, duties, and
 26 obligations of the corporation are governed in all respects by the
 27 terms of the loan documents and this article.

28 (e) The debt instruments issued under this article constitute the
 29 corporate obligations only of the corporation and are payable
 30 solely from and may be secured exclusively as provided in
 31 resolution of the board. The loan documents shall plainly state that
 32 the debt does not constitute an indebtedness of the state within the
 33 meaning or application of any constitutional provision or limitation
 34 but that it is payable solely as to both principal and interest from
 35 the corporation's assets. The provisions of this article and the
 36 covenants and undertakings of the corporation as expressed in any
 37 proceedings preliminary to or in connection with the issuance of
 38 debt instruments may be enforced by a holder by action for
 39 injunction or mandamus against the corporation or any officer,
 40 agent, or employee of the corporation. A holder may not maintain
 41 an action for monetary judgment against the state for violations of
 42 this article.



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1 **Sec. 3. (a) A corporation may establish reserves or sinking**
 2 **funds, or both, from the proceeds of the sale of debt instruments to**
 3 **secure the payment of the debt.**

4 **(b) A corporation may invest any funds held in reserve or in**
 5 **sinking fund accounts or any money not required for immediate**
 6 **disbursement in obligations of the state, the United States, or their**
 7 **agencies or instrumentalities, and other obligors as may be**
 8 **permitted under the terms of a resolution authorizing the issuance**
 9 **of the corporation's debt instruments.**

10 **Sec. 4. (a) A corporation may issue and sell common and**
 11 **preferred, voting and nonvoting shares in the corporation as**
 12 **authorized by the board.**

13 **(b) Issuance of shares by the corporation is governed by:**

14 **(1) federal law; and**

15 **(2) IC 23 to the extent not inconsistent with this article.**

16 **(c) A person may not hold more than ten percent (10%) of the**
 17 **number of voting securities of the corporation.**

18 **(d) If the corporation issues shares under this section, the**
 19 **affirmative vote of:**

20 **(1) not fewer than five (5) members of the board; and**

21 **(2) seventy-five percent (75%) of the voting securities of the**
 22 **corporation;**

23 **are required for disposition of substantially all the assets of the**
 24 **corporation.**

25 **Sec. 5. A corporation may include in any borrowing or issue**
 26 **amounts the board considers necessary to pay financing charges,**
 27 **interest on the obligations, consultant, advisory, and legal fees, and**
 28 **other expenses as are necessary or incident to a borrowing or issue.**

29 **Sec. 6. (a) Except as provided in subsection (b), all property of**
 30 **the corporation is public property devoted to an essential public**
 31 **and governmental function and purpose and is exempt from all**
 32 **taxes and special assessments of the state or an Indiana political**
 33 **subdivision.**

34 **(b) Any property the corporation acquires from the franchise**
 35 **that was subject to taxes and special assessments of the state or an**
 36 **Indiana political subdivision before acquisition by the corporation**
 37 **remains subject to those taxes or special assessments after**
 38 **acquisition by the corporation.**

39 **(c) All debt instruments issued under this article are issued by**
 40 **a body corporate and politic of this state, but not a state agency,**
 41 **and for essential public and governmental purposes. The following**
 42 **are exempt from taxation for all purposes except the financial**



institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1:

- (1) Debt instruments issued by the corporation.
- (2) Interest paid under the corporation's debt instruments.
- (3) Proceeds received by a holder from the sale of the corporation's debt instruments, to the extent of the holder's cost of acquisition.
- (4) Proceeds received upon redemption of the corporation's debt instruments before maturity.
- (5) Proceeds received at maturity of the corporation's debt instruments.
- (6) Receipt of the interest and proceeds paid with respect to the corporation's debt instruments.

Chapter 7. Acquisition of a Franchise

Sec. 1. (a) The owner shall include the following information with the notice given under IC 5-26-3-1:

- (1) The fair market value of the franchise on the date the notice is given.
- (2) Other reasonable terms and conditions for acquisition of the franchise by the corporation. The terms and conditions may include reasonable terms of payment for acquisition of the franchise. For purposes of this subdivision, payment terms and conditions are considered reasonable if substantially similar terms and conditions have been accepted for the purchase of a like franchise within the previous five (5) year period.

(b) The governor shall give the information required by subsection (a) to the board at the board's first meeting under IC 5-26-3-5.

Sec. 2. Not later than thirty (30) days after the board's first meeting under IC 5-26-3-5, the board shall do one (1) of the following:

- (1) Conditionally accept:
 - (A) the value of the franchise provided under section 1 of this chapter as the purchase price for the franchise; and
 - (B) the other terms and conditions for acquisition of the franchise;
 subject to the corporation obtaining financing for the acquisition acceptable to the board.

(2) Make a counter offer for acquisition of the franchise.

Sec. 3. If the board conditionally accepts the purchase price and terms and conditions for acquisition of the franchise under section



2(1) of this chapter, the board shall expeditiously exercise its powers under this article, including arranging for the payment to the owner, to conclude acquisition of the franchise.

Sec. 4. (a) If the board determines the corporation will be unable to:

(1) secure necessary financing for acquisition of the franchise under the terms and conditions stated by the owner; or

(2) otherwise be unable to comply with the terms and conditions for acquisition of the franchise stated by the owner;

the board shall make a counteroffer for acquisition of the franchise.

(b) If the board makes a counteroffer for acquisition of the franchise, the board shall appoint agents to negotiate with the owner to establish the terms and conditions for acquisition of the franchise by the corporation. The owner shall negotiate in good faith with the agents appointed by the board.

(c) If the corporation's negotiating agents and the owner reach agreement on the purchase price and other terms and conditions of the acquisition, the tentative agreement shall be presented to the board.

(d) If the board accepts an agreement negotiated under this section, the board shall exercise its powers under this article, including arranging for the payment to the owner, to conclude acquisition of the franchise.

Sec. 5. (a) If any of the following occur, the matter shall be referred to an arbitrator under IC 34-57-2:

(1) The owner and the board request arbitration.

(2) The owner and the corporation's negotiating agents fail to reach an agreement for acquisition of the franchise by the corporation not later than thirty (30) days after the corporation's negotiating agents and the franchise owner's negotiating agents first meet.

(3) The owner refuses to negotiate with the corporation's negotiating agents.

(b) The owner shall negotiate in good faith while the matter is before the arbitrator.

Sec. 6. The arbitrator shall determine the following under IC 34-57-2:

(1) The fair market value of the franchise on the date of the arbitrator's decision.

(2) Other reasonable terms and conditions for acquisition of



the franchise by the corporation.

Sec. 7. (a) Not later than thirty (30) days after the arbitrator has announced the arbitrator's decision, the board shall do either of the following:

(1) Accept the arbitrator's determination as the price and other terms and conditions for acquisition of the franchise.

(2) Waive acquisition of the franchise.

(b) The board may act under subsection (a)(2) only if the board determines that any of the following apply:

(1) The league will award a new franchise to the corporation as provided in section 9 of this chapter.

(2) The corporation will be unable to:

(A) secure necessary financing for acquisition of the franchise at the price and under the terms and conditions determined by the arbitrator; or

(B) otherwise comply with the terms and conditions for acquisition of the franchise determined by the arbitrator.

(3) Acquisition of the franchise at the price and under the terms and conditions determined by the arbitrator would not be in the best interest of the state and the municipality. A determination under this subdivision requires the unanimous vote of the board.

Sec. 8. If the board accepts the arbitrator's determination of the price and other terms and conditions for acquisition of the franchise:

(1) the corporation shall exercise its powers under this article to conclude acquisition of the franchise; and

(2) the board and the franchise owner shall execute the necessary documents to transfer ownership of the franchise to the corporation.

Sec. 9. (a) The corporation may waive acquisition of the franchise if the franchise owner, the league, and the corporation enter into a written agreement to award a new franchise to the corporation.

(b) An agreement entered into under subsection (a) must include the following provisions:

(1) A new franchise must be awarded to the corporation so that the franchise will be permitted to participate in league competition not later than the league's next season.

(2) The terms and conditions under which the corporation will be awarded a franchise must be no less favorable than the terms and conditions under which:



- 1 (A) the most recent new franchise was granted to join the
 2 league; and
 3 (B) any other new franchises are granted during the same
 4 year the corporation is granted a franchise.
 5 (3) The terms and conditions under which the corporation's
 6 franchise is permitted to acquire players for the franchise
 7 must be no less favorable than the terms and conditions under
 8 which:
 9 (A) the most recent new franchise was permitted to acquire
 10 players; and
 11 (B) any other new franchise granted during the same year
 12 the corporation is granted a franchise is permitted to
 13 acquire players.
 14 (c) If the corporation, the owner, and the league enter into an
 15 agreement under this section, the corporation shall exercise its
 16 powers under this article to establish the new franchise.
 17 Sec. 10. (a) If the corporation acquires a franchise under this
 18 chapter, the corporation shall exercise its powers under this article
 19 to operate the franchise.
 20 (b) All the rights and obligations of the franchise become the
 21 rights and obligations of the corporation.
 22 Chapter 8. Dissolution of the Corporation
 23 Sec. 1. This chapter applies if the board:
 24 (1) waives acquisition of the franchise under
 25 IC 5-26-7-7(a)(2); and
 26 (2) does not acquire a new franchise under IC 5-26-7-10.
 27 Sec. 2. The corporation shall do the following:
 28 (1) Pay all the corporation's obligations.
 29 (2) Pay to the treasurer of state any unencumbered funds
 30 remaining with the corporation. The treasurer of state shall
 31 deposit money received under this subdivision in the general
 32 fund.
 33 Sec. 3. After the corporation complies with section 2 of this
 34 chapter, the board shall file with the secretary of state a statement
 35 that the corporation is dissolved.
 36 Chapter 9. Penalties
 37 Sec. 1. (a) If an owner fails to comply with IC 5-26-3-1, the
 38 owner is subject to a civil penalty determined in STEP THREE of
 39 the following formula:
 40 STEP ONE: Determine the franchise's gross revenue during
 41 the franchise's most recently completed fiscal year.
 42 STEP TWO: Determine the number of home games played

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1 during the franchise's most recently completed fiscal year.

2 **STEP THREE: Divide the number determined in STEP ONE**

3 **by the number determined in STEP TWO.**

4 (b) The attorney general shall file an action in a court of
5 jurisdiction to enforce and collect a civil penalty imposed by
6 subsection (a).

7 (c) A civil penalty collected under this section shall be deposited
8 as follows:

9 (1) If the corporation has been formed, with the corporation.

10 (2) If the corporation has not been formed, in the state general
11 fund.

12 **Sec. 2. If an arbitrator finds that an owner has refused to**
13 **negotiate with the corporation, or has negotiated in bad faith, the**
14 **arbitrator shall reduce the amount of the acquisition price of the**
15 **franchise by one million dollars (\$1,000,000) for each day that the**
16 **owner has failed to negotiate or has negotiated in bad faith.**

C
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y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1200, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

KUZMAN, Chair

Committee Vote: yeas 11, nays 1.

C
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HOUSE MOTION

Mr. Speaker: I move that House Bill 1200 be amended to read as follows:

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"Sec. 5. The following do not apply to a franchise if the franchise has complied with all the terms and conditions of all agreements the franchise has with governmental entities relating to the governmental assistance received by the franchise:

- (1) IC 5-26-3-1.**
- (2) IC 5-26-4-1.**
- (3) IC 5-26-5-1.**
- (4) IC 5-26-6-1.**
- (5) IC 5-26-7-1.**
- (6) IC 5-26-8-1.**
- (7) IC 5-26-9-1."**

(Reference is to HB 1200 as printed February 23, 1999.)

BAILEY

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